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MAY 3 1930
CHARLES ELMORE CROPLEY
CLERK

FILE COPY

No. 88

In the Supreme Court of the United States

OCTOBER TERM, 1929

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, APPELLANT

v.

ATLANTA, BIRMINGHAM & COAST RAILROAD COMPANY

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF GEORGIA

STATEMENT OF JURISDICTION

In the Supreme Court of the United States

OCTOBER TERM, 1929

No. 837

UNITED STATES OF AMERICA AND INTERSTATE COMMERCE COMMISSION, appellants

v.

ATLANTA, BIRMINGHAM & COAST RAILROAD COMPANY

ON APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF GEORGIA

STATEMENT OF JURISDICTION

In compliance with Rule 12 of this Court, appellants submit herewith their statement showing the basis of this Court's jurisdiction in the above-entitled cause:

A

STATUTES

Section 238 of the Judicial Code as amended by the Act of February 13, 1925 (c. 229, 43 Stat. 936, 938), paragraph (4) (U. S. C. Title 28, Sec. 345).

Urgent Deficiencies Act of October 22, 1913 (c. 32, 38 Stat. 208, 219, 220; U. S. C. Title 28, Sec. 47).

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B

DECREE

The final decree was entered January 18, 1930. (R. —.)

The petition for appeal was filed and the order allowing the appeal was entered March 1, 1930. (R. —.) Notices of appeal with service acknowledged were also filed March 1, 1930. (R. —.) The case was docketed in this Court on April 22, 1930.

C

RULINGS

The suit (R. —) was brought to enjoin the enforcement of a *report* of the Commission, which is, we contend, erroneously designated as an *order* (R. —) entered October 9, 1929, in the proceeding entitled Finance Docket No. 5454, *Reorganization and Control of the Atlanta, Birmingham & Atlantic Railroad Company*, 158 I. C. C. 6. The report, which was unaccompanied by any order, found that the amount to be included in the balance sheet statement of the appellee representing investment in road and equipment as of January 1, 1927, should not exceed $9,261,043.87, and that the carrier would be expected to adjust its accounts in accordance with the above finding within 60 days from the service of the report.

Circuit Judge Walker and District Judges Sibley and Dawkins, who sat in the specially constituted District Court, concurred in the full opinion

(*Atlanta, Birmingham & Coast Railroad Company* v. *United States and Interstate Commerce Commission*) (R. —) and signed the final decree which adjudged that the equities were with appellee and that the order of the Commission, in so far as it fixed the amount of return of capital stock and its investment in road and equipment, was void and should be set aside and that the supplemental application of the appellee should stand for further hearing before the Commission. (R. —.)

D

CASES

B. & O. R. R. v. *United States*, 277 U. S. 291.

United States v. *Berwind-White Coal Min. Co.*, 274 U. S. 564.

United States v. *N. Y. Cent. R. R.*, 272 U. S. 457.

Brimstone R. R. Co. v. *United States*, 276 U. S. 104.

Western Chem. Co. v. *United States*, 271 U. S. 268.

THOMAS D. THATCHER,
Solicitor General.

ELMER B. COLLINS,
Special Assistant to the Attorney General.

EDWARD M. REIDY,
Solicitor for Interstate Commerce Commission.

MAY —, 1930.

U. S. GOVERNMENT PRINTING OFFICE: 1930